

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)
)
 Local Competition and Broadband)
 Reporting)

CC Docket No. 99-301

COMMENTS OF BELL SOUTH CORPORATION

BellSouth Corporation, for itself and its affiliated companies (collectively "BellSouth"), submits the following comments in response to the *Notice of Proposed Rulemaking* released in the above-captioned proceeding.¹

I. Introduction and Summary

BellSouth is generally supportive of the conclusions reached by the Commission in the *Notice*. BellSouth certainly supports the Commission's second reason for seeking the information to be provided pursuant to the *Notice* – to "reduce regulation wherever [it] can pursuant to new sections 10 and 11 of the [Telecommunications Act of 1996 ("1996 Act")].” To the extent the information to be provided pursuant to the *Notice* will help the Commission perform the stated Congressional mandate to eliminate unnecessary regulation, BellSouth believes the information gathered could be worthwhile.

Yet, BellSouth expresses this support with some reservation. The Commission seeks to gain information about competition in the local voice market and about the deployment of broadband services. BellSouth believes that the Commission's goals for gathering data from the

¹ *In the Matter of Local Competition and Broadband Reporting*, CC Docket No. 99-301, *Notice of Proposed Rulemaking*, FCC 99-283, released October 22, 1999 ("Notice").

broadband market can be met with the entities that would be reporting pursuant to the proposed rules. The Commission, however, has cast a far too narrow net for local competition. Accordingly, while BellSouth supports the Commission's proposals, BellSouth contends that a more accurate and fair gathering of the information can be obtained.

II. To Gauge The State of Local Competition More Carriers Must Provide Information

The *Notice* proposes to require "carriers with 50,000 or more local access lines or channels (of any capacity) nationwide, or 50,000 or more subscribers nationwide to file information pursuant to this program." The *Notice* acknowledges that requiring only carriers with 50,000 or more access lines nationwide to file will require "fewer than 50 of the nation's (incumbent and competitive) LECs [to be] subject to [the Commission's] proposed reporting requirements." This small number of carriers will not provide an accurate picture of the competitive telecommunications local exchange services market. Early competition likely will not come from one or two major players, but will originate from many small carriers. Obtaining information from so few carriers, as the *Notice* proposes, will provide a very incomplete view of the market and undermine the purpose for which the information is to be gathered.

The *Notice* even recognizes this point. It specifically states that "[r]egulatory policies that are based on incomplete information are less effective than regulation based on an informed evaluation of what is actually happening in the markets." Thus, it is puzzling why the Commission would limit the carriers that would be required to comply with the reporting requirements of the *Notice* to those with 50,000 or more access lines. The distorted market view created by such reporting requirements is evident. For example, under the *Notice*'s proposal, if a carrier has only 40,000 access lines within a single market, *i.e.*, a single metropolitan area, or

even a single state, that carrier would be exempt from reporting. Clearly, however, that carrier has brought significant competition to the area.

Consequently, if the Commission is to meet its avowed need for “timely and reliable information about the pace and extent of developing local competition in different geographic areas – including rural areas – in order to evaluate the effectiveness of actions [it] and states are taking to promote local competition,” then the Commission must study a greater universe of carriers than that proposed in the *Notice*. BellSouth believes that the Commission should require all carriers with 10,000 or more access lines be included in the reporting requirement. A 10,000-access-line requirement appears to be a natural break-point between mid-sized and small carriers, at least in the BellSouth serving area. A 10,000-access-line requirement, therefore, would capture data from those carriers needed to portray a more realistic view of the state of competition in the local telecommunications services market.

The *Notice* discusses the Commission’s attempt to balance the need for information with the burden that will fall on carriers to complete the survey. The administrative burden appears to be the overriding reason why the Commission chose to limit the number of carriers that must respond. BellSouth recognizes that enlarging the set of carriers with reporting obligations will impose a burden on smaller carriers, as well as the Commission. If, however, the Commission desires a true representation of the competitive local exchange market, including such carriers is essential. While BellSouth agrees that filing the report initially may be burdensome, it believes that burden to be proportional to each carrier’s resources. Thus, the resources needed to gather the information for a carrier with 10,000 access lines should be proportionally equal to the resources needed for carriers with 50,000 or more access lines to gather the information. There

is, therefore, no reason to place the burden on carriers with 50,000 or more access lines and not place the burden on carriers with 10,000 or more lines.²

Moreover, BellSouth agrees with the *Notice* that in states where an incumbent LEC of any size faces no local service competition and provides only a *de minimis* number of broadband lines, that LEC should be allowed to file a letter stating such in lieu of reporting. This should address the concern many small incumbent LECs have regarding reporting without compromising the integrity of the data received by the Commission.

III. Miscellaneous Provisions in the *Notice*

As discussed, BellSouth supports the Commission's efforts to monitor the competitive local exchange services or telecommunications market and broadband market by using information gathered from all but the smallest carriers. BellSouth offers the following comments on the proposals set forth in the *Notice* in an effort to enhance the proposed reporting process.

A. Frequency of Reports

BellSouth agrees with the Commission's tentative conclusion that reports filed on an annual or semi-annual basis are too infrequent for tracking the development of local competition accurately. The pace of market change is very rapid. Because of this swift and steady pace, BellSouth believes that the reports should be filed quarterly. Quarterly surveys, rather than monthly reports, should preclude overburdening the carriers or the Commission staff. Quarterly reporting will give the Commission the information it needs on a timely basis and allow time for analysis prior to receipt of the next survey.

² Indeed, because it is proportional, the Commission could require all carriers to report. BellSouth, however, does not believe that carriers with less than 10,000 access lines will change

B. Reporting Area

BellSouth agrees with the proposal to provide the information by state. While BellSouth recognizes that provision of information by smaller geographic areas may be more useful in some circumstances, it is more burdensome to collect and allows competitors access to data that would not normally be made available to the public.³ Reporting at the market level would undoubtedly cause companies, including BellSouth, to file data as confidential.

C. Other Provisions

The Commission should address the following items in its Order:

1. The definitions of the information to be reported may be open to interpretation.

BellSouth believes that in order to get accurate comparable information from all the carriers, the definitions of the information to be reported must be specific enough to leave no doubt regarding the information sought. For example, would Line 5 include Dormitory Service Arrangements as well as Centrex and Shared Tenant Services?

2. Many of the incumbent LECs offer their asymmetric digital subscriber line (“ADSL”) product as a wholesale product, for example to Internet service providers (“ISP”). The ISPs then offer the product to the end-user. Sections IV and V of the proposed report do not appear to ask for incumbent LECs to report high capacity lines provided on a wholesale basis. BellSouth believes the Commission should clarify whether its intent is to have these lines accounted for in other sections of the report, *i.e.*, by carriers who lease these lines and then resell them to end-users, or if this was an oversight in the design of the proposed report.⁴

the results significantly and are not needed.

³ For example, number of subscribers for mobile telephony operations is highly proprietary and confidential.

⁴ The *Notice* appears to contemplate that ISPs subject to the 1,000 broadband line threshold would have to file a report. BellSouth questions the Commission’s authority to regulate ISPs in

3. BellSouth is concerned about the number of entities that will have to file a report pursuant to the proposal in the *Notice*. For example, within the mobile telephony industry most companies many partnerships creating numerous separate legal entities. It would be extremely burdensome if each of these separate entities had to file a separate report. Moreover, separate reports for each of the legal entities would provide no added benefit to the Commission beyond a collective single report filed on behalf of all the entities. Accordingly, BellSouth contends that the Commission should clarify its position in paragraph 43 of the *Notice* that commonly controlled operations should file a single consolidated report for all its separate legal entities.

4. BellSouth believes that the reporting process should sunset after five years. With the rapid change in the competitive market, the need to monitor competition will have passed within five years.

IV. Conclusion

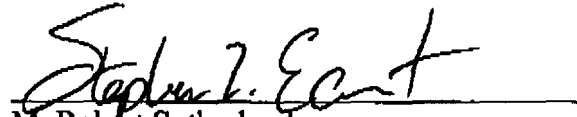
BellSouth believes that adopting the proposals set forth in the *Notice* will help the Commission see and understand the competitive nature of the market. BellSouth hopes that gaining such an understanding will enable the Commission to accelerate deregulation as mandated by the 1996 Act. Therefore, based on the foregoing, BellSouth supports, subject to the caveats noted above, the proposals recommended by the Commission in the *Notice*.

this way. The Commission must clarify whether it intends for ISPs to file the report and if so under what authority it would make such a requirement. Regardless of the Commission's intent or authority, the more suitable entity to report the information when a line is sold to an ISP and the ISP resells it to an end-user would be the carrier providing the DSL service to the ISP and not the ISP itself. Accordingly, the Commission should revise the report to reflect the carrier that provides DSL service to an ISP as the entity that should report such information.

Respectfully submitted,

BELLSOUTH CORPORATION

By its Attorneys

A handwritten signature in dark ink, appearing to read "Stephen L. Earnest", is written over a horizontal line.

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Date: December 3, 1999

CERTIFICATE OF SERVICE

I do hereby certify that I have this 3rd day of December, 1999, served the following parties to this action with a copy of the foregoing ***COMMENTS OF BELLSOUTH CORPORATION***, reference CC Docket No. 99-301, by hand delivery or by placing a true and correct copy of the same by Federal Express, addressed to the parties listed below.

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* **VIA HAND DELIVERY**
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